
1 Promoters of tax avoidance schemes: threshold conditions etc

- (1) In Part 2 of Schedule 34 to FA 2014 (meeting the threshold conditions: bodies corporate and partnerships), in paragraph 13A (interpretation), for sub-paragraphs (6) to (8) substitute—

“(6) Two or more persons together control a body corporate if together they have the power to secure that the affairs of the body corporate are conducted in accordance with their wishes in any way specified in sub-paragraph (5)(a) to (c).

(7) A person controls a partnership if the person is a member of the partnership and—

- (a) has the right to a share of more than half the assets, or more than half the income, of the partnership, or
- (b) directs, or is on a day-to-day level in control of, the management of the business of the partnership.

(8) Two or more persons together control a partnership if they are members of the partnership and together they—

- (a) have the right to a share of more than half the assets, or of more than half the income, of the partnership, or
- (b) direct, or are on a day-to-day level in control of, the management of the business of the partnership.

(9) Paragraph 19(2) to (5) of Schedule 36 (connected persons etc) applies to a person referred to in sub-paragraph (7) or (8) as if references to “P” were to that person.

(10) A person has significant influence over a body corporate or partnership if the person—

- (a) does not control the body corporate or partnership, but
- (b) is able to, or actually does, exercise significant influence over it (whether or not as the result of a legal entitlement).

(11) Two or more persons together have significant influence over a body corporate or partnership if together those persons—

- (a) do not control the body corporate or partnership, but
- (b) are able to, or actually do, exercise significant influence over it (whether or not as the result of a legal entitlement).

(12) References to a person being a promoter are to the person carrying on business as a promoter.”

- (2) In Part 2 of Schedule 34 to FA 2014, for paragraphs 13B to 13D substitute—

“Relevant bodies controlled etc by other persons treated as meeting a threshold condition

13B (1) A relevant body is treated as meeting a threshold condition at the relevant time if any of Conditions A to C is met.

(2) Condition A is that—

- (a) a person met the threshold condition at a time when the person was a promoter, and
- (b) the person controls or has significant influence over the relevant body at the relevant time.

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- (3) Condition B is that –
- (a) a person met the threshold condition at a time when the person controlled or had significant influence over the relevant body,
 - (b) the relevant body was a promoter at that time, and
 - (c) the person controls or has significant influence over the relevant body at the relevant time.
- (4) Condition C is that –
- (a) two or more persons together controlled or had significant influence over the relevant body at a time when one of those persons met the threshold condition,
 - (b) the relevant body was a promoter at that time, and
 - (c) those persons together control or have significant influence over the relevant body at the relevant time.
- (5) Where the person referred to in sub-paragraph (2)(a) or (3)(a) or (4)(a) as meeting a threshold condition is an individual, sub-paragraph (1) only applies if the threshold condition is a relevant threshold condition.
- (6) For the purposes of sub-paragraph (2) it does not matter whether the relevant body existed at the time referred to in sub-paragraph (2)(a).

Persons who control etc a relevant body treated as meeting a threshold condition

- 13C (1) If at a time when a person controlled or had significant influence over a relevant body –
- (a) the relevant body met a threshold condition, and
 - (b) the relevant body, or another relevant body which the person controlled or had significant influence over, was a promoter,
- the person is treated as meeting the threshold condition at the relevant time.
- (2) It does not matter whether any relevant body referred to sub-paragraph (1) exists at the relevant time.

Relevant bodies controlled etc by the same person treated as meeting a threshold condition

- 13D (1) If –
- (a) a person controlled or had significant influence over a relevant body at a time when it met a threshold condition, and
 - (b) at that time that body, or another relevant body which the person controlled or had significant influence over, was a promoter,
- any relevant body which the person controls or has significant influence over at the relevant time is treated as meeting the threshold condition at the relevant time.
- (2) If –
- (a) two or more persons together controlled or had significant influence over a relevant body at a time when it met a threshold condition, and

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- (b) at that time that body, or another relevant body which those persons together controlled or had significant influence over, was a promoter,
any relevant body which those persons together control or have significant influence over at the relevant time is treated as meeting the threshold condition at the relevant time.
- (3) It does not matter whether –
- (a) a relevant body referred to in sub-paragraph (1)(a) or (b) or (2)(a) or (b) exists at the relevant time, or
 - (b) a relevant body existing at the relevant time existed at the time referred to in sub-paragraph (1)(a) or (2)(a).”
- (3) In Part 4 of Schedule 34A to FA 2014 (meeting section 237A conditions: bodies corporate and partnerships), for paragraphs 20 to 22 substitute –

“Relevant bodies controlled etc by other persons treated as meeting section 237A condition

- 20 (1) A relevant body is treated as meeting a section 237A condition at the section 237A(2) relevant time if any of Conditions A to C is met.
- (2) Condition A is that –
- (a) a person met the section 237A condition at a time when the person was a promoter, and
 - (b) the person controls or has significant influence over the relevant body at the section 237A(2) relevant time.
- (3) Condition B is that –
- (a) a person met the section 237A condition at a time when the person controlled or had significant influence over the relevant body,
 - (b) the relevant body was a promoter at that time, and
 - (c) the person controls or has significant influence over the relevant body at the section 237A(2) relevant time.
- (4) Condition C is that –
- (a) two or more persons together controlled or had significant influence over the relevant body at a time when one of those persons met the section 237A condition,
 - (b) the relevant body was a promoter at that time, and
 - (c) those persons together control or have significant influence over the relevant body at the section 237A(2) relevant time.
- (5) Sub-paragraph (1) does not apply where the person referred to in sub-paragraph (2)(a), (3)(a), or (4)(a) as meeting a section 237A condition is an individual.
- (6) For the purposes of sub-paragraph (2) it does not matter whether the relevant body existed at the time referred to in sub-paragraph (2)(a).

Persons who control etc a relevant body treated as meeting a section 237A condition

- 21 (1) If at a time when a person controlled or had significant influence over a relevant body –

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- (a) the relevant body met a section 237A condition, and
 - (b) the relevant body, or another relevant body which the person controlled or had significant influence over, was a promoter, the person is treated as meeting the section 237A condition at the section 237A(2) relevant time.

- (2) It does not matter whether any relevant body referred to sub-paragraph (1) exists at the section 237A(2) relevant time.

Relevant bodies controlled etc by the same person treated as meeting a section 237A condition

- 22 (1) If—

- (a) a person controlled or had significant influence over a relevant body at a time when it met a section 237A condition, and
- (b) at that time that body, or another relevant body which the person controlled or had significant influence over, was a promoter,

any relevant body which the person controls or has significant influence over at the section 237A(2) relevant time is treated as meeting the section 237A condition at the section 237A(2) relevant time.

- (2) If—

- (a) two or more persons together controlled or had significant influence over a relevant body at a time when it met a section 237A condition, and
- (b) at that time that body, or another relevant body which those persons together controlled or had significant influence over, was a promoter,

any relevant body which those persons together control or have significant influence over at the section 237A(2) relevant time is treated as meeting the section 237A condition at the section 237A(2) relevant time.

- (3) It does not matter whether—

- (a) a relevant body referred to in sub-paragraph (1)(a) or (b) or (2)(a) or (b) exists at the section 237A(2) relevant time, or
- (b) a relevant body existing at the section 237A(2) relevant time existed at the time referred to in sub-paragraph (1)(a) or (2)(a).”

- (4) In Part 4 of Schedule 34A to FA 2014, in paragraph 23 (interpretation) —

- (a) in sub-paragraph (1), for the definition of “control” substitute —
““control” and “significant influence” have the same meanings as in Part 4 of Schedule 34 (see paragraph 13A(5) to (11));

references to a person being a promoter are to the person carrying on business as a promoter;”;

- (b) in sub-paragraph (2), for “20(1)(a), 21(1)(a) and 22(1)(a)” substitute “20 to 22”.

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- (5) The amendments made by subsections (1) and (2) have effect for the purposes of determining whether a person meets a threshold condition in a period of three years ending on or after 8 March 2017.
 - (6) The amendments made by subsections (3) and (4) have effect for the purposes of determining whether a person meets a section 237A condition in a period of three years ending on or after 8 March 2017.